IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPLICATION NO.14 OF 2002

The Commissioner of Customs
(Airport), Mumbai .. Applicant.
V/s.
M/s.A. Himanshu & Co. .. Respondents.

Mr.R.V. Desai, senior counsel with Mr.S.V. Bharucha for the applicant.
None for the respondent.

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 23RD FEBRUARY, 2005.

P.C. :

Heard learned counsel for the applicant.

2. By this application, the revenue is seeking to raise following two substantial questions of law.

1. Whether the Hon'ble Tribunal is correct in holding that the confiscation was bad-in-law, despite the fact that the misdeclaration and overinvoicing was established beyond all doubts by the Applicant and squarely admitted by the Respondents ?

2. Whether the offence of overinvoicing and misdeclaration of value can be cured by subsequently, on detection, admitting the mistake and producing new correct invoices ?

3. We have perused the order the CEGAT dated September 28, 2001, wherein para 2 reads as under :

"2. On hearing both sides and noting that the explanation of wrong invoicing is

> plausible and borne out by letter dt. 16.8.1996 written by the foreign supplier and also noting that the Commissioner himself has hold that there is substance in the plea of wrong invoicing in view of production of fresh invoice, I hold that the confiscation is bad in law and accordingly set aside the same and allow the appeal, with consequential relief due to the appellants."

4. In view of the above, we do not find any substantial question of law involved in the application. The application stands dismissed.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)